

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION
Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 90374-001

v

Midwest Security Life Insurance Company
Respondent

Issued and entered
this 18th day of August 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 13, 2008, XXXXX, on behalf of his wife XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* After a preliminary review of the material submitted, the Commissioner accepted the request for external review on June 20, 2008.

Because the case involves medical issues, the Commissioner assigned it to an independent review organization (IRO) which provided its analysis on July 3, 2008.

II
FACTUAL BACKGROUND

The Petitioner's health care benefits are defined in the certificate of group insurance (the certificate) issued by Midwest Security Life Insurance Company. The Petitioner's physician ordered a series of laboratory tests which were performed by XXXXX on May 2 and August 13, 2007. Midwest initially paid for the tests but then concluded that the tests were "alternative medicine" which is excluded under the terms of the certificate. Midwest now seeks to obtain

reimbursement of \$300.15 from the Petitioner. The Petitioner appealed Midwest's decision through its internal grievance process. Midwest maintained its denial and issued a final adverse determination on April 29, 2008.

III ISSUE

Is Midwest correct in denying coverage and seeking reimbursement for the Petitioner's laboratory tests?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that she went to Dr. XXXXX based on a recommendation that he specialized in treating Hashimoto's disease and deficiencies in the body. She says she had been extremely tired, moody, and had achy bones. She says she noticed that her symptoms became more apparent after the birth of her second child. Dr. XXXXX diagnosed the Petitioner with neutropenia, Hashimoto's disease, and hypothyroidism. He ordered the lab work in question. The Petitioner says the lab work was medically necessary to diagnose and treat the underlying cause of her symptoms. She believes Midwest should provide coverage for all of the tests.

Midwest Security Life Insurance Company's Argument

In its adverse determination, Midwest stated, "Your plan specifically excludes coverage for charges that were considered alternative medicine."

Midwest says the certificate contains an exclusion for services that are considered to be alternative medicine or not medically necessary:

LIMITATIONS

The term "Covered Expenses" as used for this coverage shall be deemed not to include any of the charges which are described below:

* * *

- (2) Such charges which are Experimental, Investigational, Unproven or not Medically Necessary.
* * *
- (37) Charges for alternative and complimentary medical treatments. Treatments include but are not limited to: holistic medicine, ayurveda and ayurvedic nutrition, craniosacral therapy, yoga, homeopathy, movement therapy, naturopathy, tai chi chuan, visualization sessions and other programs with an objective to provide complete personal fulfillment or harmony, chelation (metallic ion therapy) except in the treatment of heavy metal poisoning, rolfing, reiki, reflexology, therapeutic touch, colon therapy, massage therapy, herbal therapy, vitamin therapy, and hypnotherapy.

Midwest argues that the lab tests were alternative medicine and therefore not eligible for coverage.

Commissioner's Analysis

In reviewing adverse determinations that involve medical issues, the Commissioner requests a review and recommendation from an IRO. In this case, the IRO reviewer is board certified in internal medicine and has been in practice for more than 10 years. The IRO reviewer examined the medical records submitted by the parties and concluded that "the laboratory services at issue in this appeal were not medically necessary for diagnosis and treatment of [Petitioner's] condition."

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner; in a decision to uphold or reverse an adverse determination the Commissioner must cite "the principal reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO reviewer's analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in the present case.

The Commissioner accepts the findings of the IRO reviewer that the Petitioner's tests were not medically necessary and concludes that the tests are excluded from coverage under the terms and conditions of the certificate.

**V
ORDER**

The Commissioner upholds Midwest Security Life Insurance Company's April 29, 2008, final adverse determination. Midwest may seek reimbursement as permitted under the terms of the certificate of coverage.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

Ken Ross
Commissioner